IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

SUMMARY SUIT NO.905 OF 2004

Kailash D. Mulchandani. ...Plaintiff.
Versus
Unique Construction Corporation & Ors. ...Defendants.

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Ms. Kavita S. Lalvani for the Plaintiff.
None for the Defendants.

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CORAM : DR. D.Y. CHANDRACHUD, J.

March 26, 2007.

P.C.:

The suit arises under the provisions of Order 37 of the Code of Civil Procedure, 1908. By an order dated 11th October 2005, this Court while granting conditional leave to defend has recorded the undertaking of the Defendants that an amount of Rs.1,33,750/- will be deposited. By an order dated 6th March 2006 it was clarified that the deposit shall be effected within a period of 12 weeks. The Defendants have failed to comply with the condition subject to which leave to defend was granted. A certificate of non-deposit dated 15th July 2006 of the Master and Assistant Prothonotary has been placed on the record. The Plaintiff has filed a compilation of documents including the original of the Bill of Exchange on the basis of which the suit has been

instituted. Since the Defendants have not complied with the condition, subject to which the leave was granted to defend the suit, the Plaintiff shall be entitled to a decree in terms of the provisions of Order 37 of the Code of Civil Procedure, 1908. Even otherwise, the claim is within the purview of the provisions of Order 37 of the Code of Civil Procedure, 1908, and has been duly established. The suit shall accordingly stand decreed as prayed with the modification that the the Plaintiff will be entitled to interest at the rate of 9% per annum from the date of the suit until payment or realisation.

Refund of Court fee, if any, as per rules.

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